UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

JAMES S. GORDON, JR., an individual residing in Benton County, Washington,

Plaintiff,

v.

IMPULSE MARKETING GROUP, INC.,a Nevada Corporation,

Defendant.

IMPULSE MARKETING GROUP, INC.,

Third-Party Plaintiff,

BONNIE GORDON, JAMES S. GORDON, III, JONATHAN GORDON, JAMILA GORDON, ROBERT PRITCHETT and EMILY ABBEY,

Third-Party Defendants.

No. CV-04-5125-FVS

ORDER GRANTING MOTION TO RESCHEDULE

BEFORE THE COURT is Defendant's Motion to Reschedule or Strike Plaintiff's Motion for Summary Judgment, Ct. Rec. 121. Plaintiffs are represented by Douglas McKinley. Defendant Impulse Marketing Group, Inc., is represented by Floyd Ivey. The Court has reviewed the entire file and is prepared to rule.

Plaintiff's Motion to Dismiss Third-Party Defendants and Counterclaims Under FRCP 12(b)(6) or in the alternative Motion for Summary Judgment under FRCP 56 or in the alternative to Dismiss under FRCP 9(b) (Ct. Rec. 40) is noted for a telephonic hearing on November

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2, 2005. Defendant now moves to reschedule that hearing until it has conducted sufficient discovery to permit it to respond to Plaintiff's Statements of Material Fact 4, 6, 10-17, and 25. The Court determines a continuance under Federal Rule of Civil Procedure 56(f) is appropriate to permit the parties to conduct discovery in this matter. Accordingly,

IT IS HEREBY ORDERED:

1. Defendant's Motion to Expedite, **Ct. Rec. 119**, is **GRANTED.**

2. Defendant's Motion to Reschedule or Strike Plaintiff's Motion for Summary Judgment, **Ct. Rec. 121**, is **GRANTED.** The November 2, 2005, telephonic hearing on Plaintiff's Motion to Dismiss Counterclaims and Third Party Defendants Under FRCP 12(b)(6) or in the Alternative For Summary Judgment Under FRCP 56 or in the Alternative To Dismiss Under FRCP 9(b), Ct. Rec. 40, is **STRICKEN.** Plaintiffs' motion will be rescheduled when sufficient discovery has been conducted to enable Defendant to respond to Plaintiff's statement of material facts. The Court will address the issue of rescheduling Plaintiff's motion at the Scheduling Conference on Friday, November 4, 2005. The parties **shall** include in their Joint Status Certificate, an anticipated date at which time the Court may re-note Plaintiff's motion.

IT IS SO ORDERED. The District Court Executive is hereby directed to enter this Order and furnish copies to counsel.

DATED this 25th day of October, 2005.

s/ Fred Van Sickle
Fred Van Sickle
United States District Judge